

# United States Court of Appeals For the First Circuit

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No. 00-2097

UNITED STATES OF AMERICA,

Appellant,

v.

JOHN MORAN and NORA MORAN,

Defendants, Appellees.

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## ERRATA

The opinion of this court, issued on September 23, 2002, should be amended as follows.

The last paragraph of Chief Judge Boudin's concurring opinion, beginning on page 32 and continuing to page 33, should be replaced with the following two paragraphs:

In the district court, Nora moved for a judgment of acquittal based on insufficient evidence; thereafter she argued to the district court that this filing should in the alternative be treated as a motion for a new trial on the same ground. The government takes the position that the alternative request was untimely and did not constitute a proper motion for a new trial. The district court apparently did not rule one way or the other

because the alternative request was mooted by the directed judgment of acquittal. On remand, the new trial request and the government's objections remain to be considered.

The district court, already disposed to grant an acquittal outright, may well be inclined to grant a new trial on weight-of-the-evidence grounds, given the collapse of the government's primary voting theory and the thin factual support for the fraudulent non-disclosure claim against Nora. See, e.g., United States v. Montilla-Rivera, 115 F.3d 1060, 1067 (1st Cir. 1997). This outcome might well be justified, assuming that Nora's arguments for the timeliness of the new trial motion can overcome the government's asserted objections.